## UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION 3:21-cv-674-MOC

BRIAN D. GREEN,	)	
	)	
Plaintiff, pro se,	)	
	)	
<b>v.</b>	)	ORDER
	)	
SMITH, DEBNAM, NARRON, DRAKE,	)	
SAINTSING & MYERS, LLP, et al.,	)	
	)	
Defendants.	)	
	)	

**THIS MATTER** comes before the Court on a Motion to Strike Second Amended Complaint, filed by Smith Debnam Narron Drake Saintsing & Myers, LLP ("Smith Debnam"), Jerry T. Myers, and Melissa A. Tulis. (Doc. No. 18).

The motion is granted for the reasons stated in Defendants' brief. That is, Plaintiff filed the Amended Complaint without first seeking leave to amend or Defendants' consent, in violation of FED. R. CIV. P. 15(a). Moreover, as Defendants note, it would be futile to allow Plaintiff to amend his Complaint. The allegations in the Second Amended Complaint relating to Plaintiff's Fair Debt Collection Practices Act do not cure the deficiencies in his first Amended Complaint as to that claim. Moreover, to the extent Plaintiff seeks to replace his North Carolina Collection Agency Act claim in his First Amended Complaint with a claim against Defendants under the North Carolina Debt Collection Act, N.C. GEN. STAT. § 75-50, this claim fails because, as members of a learned profession, Defendants are not subject to the Act.

IT IS THEREFORE ordered that Defendants' pending Motion to Strike (Doc. No. 18)

<sup>&</sup>lt;sup>1</sup> The U.S. magistrate judge also concluded as such in denying Plaintiff's subsequently filed motion to amend. <u>See</u> (Text Order dated May 24, 2022).

## is **GRANTED**.

Signed: June 21, 2022